

GREENSTEIN DELORME & LUCHS, P.C.

1620 L STREET, N.W., SUITE 900
WASHINGTON, D.C. 20036-5605
tel (202) 452-1400 fax (202) 452-1410

www.gdllaw.com

Vincent Mark J. Policy
VMP@gdllaw.com

August 5, 2009

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RECEIVED
REGION 1

BY ELECTRONIC MAIL AND FEDERAL EXPRESS

Ms. Penny Lanzisera (penny.lanzisera@nrc.gov)
Senior Health Physicist
Materials License and Inspection Branch
Region 1
U.S. Nuclear Regulatory Commission
475 Allendale Road
King of Prussia, PA 19406-1415

Re: National Institutes of Health, License No. 19-00296-10
for 12501 Washington Avenue, Rockville, Maryland 20852
(known as the Flow Building, and also known as
Danac 4)

Dear Ms. Lanzisera:

We represent JBG/Twinbrook Metro, L.L.C., the owner of the property located at 12501 Washington Avenue, Rockville, Maryland, which is the subject of the January 9, 2009 Final Radiological Status Survey Report (marked "Draft") forwarded to you by Robert A. Zoon, Radiation Safety Officer for the National Institutes of Health.

On behalf of our client, we have enclosed with this letter an analysis by Integrated Environmental Management, Inc. of the Final Radiological Status Survey Report for the Flow Building, which Mr. Zoon forwarded to you.

For the reasons stated in their Report, Integrated Environmental Management, Inc. concludes that: "Because of ... omissions and deficiencies [in the Report], it is not possible to independently verify/validate either the survey results or the conclusion drawn from those results (i.e., "The Final Status Survey conducted by the NIH demonstrates compliance with the provisions specified in Title 10 C.F.R. Part 20 for releasing



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the building located at 12501 Washington Avenue in Rockville, Maryland for unrestricted use."). (Brackets added)

Although the owner of this property does not want to delay your decision in this matter, the owner is concerned about the shortcomings raised by the Integrated Environmental Management, Inc. report, and the resulting inconclusive nature of the Report submitted by NIH to you. We are requesting your attention to the issues raised by the enclosed Integrated Environmental Management, Inc. report, and would be pleased to have them discuss this matter directly with you as well as with NIH.

I am sending a copy of this letter and the enclosure to counsel for NIH (Mr. Curran) and to counsel for GSA (Mr. Scott).

We appreciate your consideration of this matter, and please call us if you require anything further.

Respectfully submitted,

Vincent Mark J. Policy

VMP:dlh

Encls.

cc: Charles E. Curran, Esq. (by email; w/encl.)
James Scott, Esq. (by email; w/encl.)
Mr. Rod Lawrence (by email; w/encl.)
Margaret Klarman, Esq. (by email; w/encl.)
Abraham J. Greenstein, Esq. (by email; w/encl.)
Ms. Carol E. Berger, CHP (by email; w/encl.)
Mr. Bill R. Thomas, CHP, CIH (by email; w/encl.)
Ms. Peggy Farrell (by email; w/encl.)



8 Brookes Avenue, Suite 205, Gaithersburg, Maryland 20877
Phone (240) 631-8990 Fax (240) 631-8991

www.IEM-inc.com

August 4, 2009

Vincent Mark J. Policy, Esq.
Greenstein DeLorme & Luchs, P.C.
1620 L Street, N.W., Suite 900
Washington, D.C. 20036

Re: Review of "Final Radiological Status Survey Report" for the Flow Building

Dear Mr. Policy:

Pursuant to your request of July 28, 2009, we have reviewed the referenced final status survey report, prepared for the National Institutes of Health (dated January 2009). The purpose of the review was to provide an independent opinion as to whether the radiologically restricted areas within the Flow Building, located at 12501 Washington Avenue in Rockville (Maryland) may be released for unrestricted use (i.e., without regard for radiological issues). It is our understanding that the final status survey was to be performed pursuant to the guidance contained in NUREG-1575, "Multi-Agency Radiation Survey and site Investigation Manual (MARSSIM)", Rev. 1, August 2000.^{1,2}

For your information, MARSSIM is a comprehensive and detailed industry standard for planning, implementing and evaluating radiological surveys for decision-making that has been approved for use and relied upon by the U. S. Environmental Protection Agency, the U. S. Nuclear Regulatory Commission, the U. S. Department of Energy, the Department of Defense, and most State regulatory agencies. A survey that is performed pursuant to MARSSIM guidance means that it has been planned effectively, that the quality of the data acquired meets pre-established objectives, that the uncertainty in the results can be estimated, that the data can be interpreted in a way that permits the necessary decision(s) to be made, and that the results are reported such that they are understandable and verifiable by others. A MARSSIM-based survey thus requires the following:

- That personnel planning and implementing the survey be qualified in those activities;
- A survey design that ensures an adequate amount of data of sufficient quality are collected;

¹ Lanzisera, P. (U. S. Nuclear Regulatory Commission), written communication to R. A. Zoon (National Institutes of Health), "Dept. of Health & Human Services, Acceptance of Notification of Cessation of Activities and Planned final Status Survey at the Flow Building (DANAC-4) in Rockville, Maryland, Control No. 142887, November 24, 2008.

² Zoon, R. (National Institutes of Health), e-mail communication (plus attachment entitled "Initial Sampling Plan for Danac 4 Scoping Surveys") to P. Lanzisera (U. S. Nuclear Regulatory Commission), "Survey Plan for Flow Building", November 17, 2008, 8:32 a.m.

- That sufficient measurements of background exposure rates and radionuclide concentrations are made in locations that are representative of the surfaces/media in the survey area but remote enough from the survey area to be clearly non-impacted, with consideration given to spatial variations in the natural background;
- A reference coordinate system be established so that measurement/sample points can be re-located at a later date for confirmation/verification;
- Data quality objectives be set that are applicable to data needs and the decisions to be made from the data;
- Selection of survey instruments and survey procedures based on their detection capabilities for the expected contaminants and their quantities;
- Selection of measurement methods that will result in the data needed for decision-making (i.e., direct or static measurements, scanning or walk-over measurements, sample collection/analysis or some combination);
- Determining how measurement uncertainty will be determined and reported, and whether what level of uncertainty is needed in order to reach a decision;
- Selection of an analytical laboratory with qualifications that meet the following criteria:
 - Possess appropriate and well-documented procedures, instrumentation and trained personnel to perform the necessary analyses;
 - Experienced in performing the same or similar analyses;
 - Satisfactory performance evaluation results from formal monitoring or accreditation programs (i.e., able to provide a summary of QA audits and proof of participation in interlaboratory cross-check programs);
 - Equipment calibrations using reference standards that are traceable to the National Institute of Standards and Technology (NIST) whenever possible;
 - Adequate capacity to perform all analyses within the desired time frame;
 - An internal quality control review of all generated data that is independent of the data generators;
 - Adequate protocols for method performance documentation and sample security; and
 - An active and fully-documented quality assurance program in place.
- A sample tracking system that demonstrates custody transfers;
- That appropriate test methods be used to interpret results and compare results to pre-determined decision levels;
- A documentation and reporting system that produces a complete and unambiguous record of the radiological status of the survey areas relative to the established decision levels, and with sufficient data and information to enable an independent evaluation of the results at some future time.

The firm that performed the final status survey was clearly aware of the existence of MARSSIM because the survey methodology as described in the report attempted to follow that guidance. However, the contents of the survey report fails to provide most of the aforementioned information. Most importantly, the following key items necessary for assessing whether the survey methodology had the capability of measuring residual radioactivity at sufficiently low levels are missing from the report:

- Scan Results - The report states that 50% of floors and lower wall areas, plus 10% of upper walls and ceilings were scanned. However the scan results were not provided.
- Residual Tritium Activity - Surveys or measurements of the amount and distribution of total (fixed plus removable) residual tritium (H-3) were either not performed or not provided. Only removable activity surveys were given.
- Instrumentation - No calibration information was provided for the instruments used to perform the scans, stationary measurements, smear counting, etc.
- Instrument efficiencies - The instrument detection efficiencies for the radionuclides of interest are given without justification. It is not clear whether the instruments were calibrated for the detection of these radionuclides, whether adjustments were made to calibrated values to accommodate changes in radiation type/energy, whether 2- π or 4- π source/detector geometries were used for initial calibration or for correction, etc.

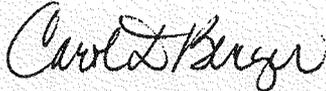
In addition, the following observations are provided:

- The surveyors inspected the records of sealed sources previously used at the facility and verified that no source was reported to have been leaking in excess of license limits (i.e., less than 0.005 microcurie leakage per test). However, the report was silent as to whether all sources were accounted for and removed from the building.
- The text in Section 2.3 indicates that 30 samples were collected in Lab 47 in order to evaluate the presence of removable activity. The map for Lab 47 (Attachment 6 of the report) only shows 23 sample locations, thus the location of seven (7) samples cannot be determined.
- All of the maps shown in Attachment 6 of the report are missing information about when the surveys were performed, who performed the surveys, which instrument (by serial number) was used, etc.
- Section 5.1 of the report requires periodic checking of the survey instrument response to a check source and to background. The results of those checks do not appear in the report.
- The quality control checks reported in Attachment 9 appear to have been performed and reviewed by the same person, which defeats the purpose of a second party review.

Because of these omissions and deficiencies, it is not possible to independently verify/validate either the survey results or the conclusion drawn from those results (i.e., "The Final Status Surveys conducted by the NIH demonstrates compliance with the provisions specified in Title 10 CFR Part 20 for releasing the building located at 12501 Washington Avenue in Rockville, MD for unrestricted use.")³ If the aforementioned information should be made available to us at a later date, we would be pleased to supplement this report at that time.

Sincerely,

INTEGRATED ENVIRONMENTAL MANAGEMENT, INC.



Carol D. Berger, CHP



Bill R. Thomas, CHP, CIH

File 2001012.08

³ "Final Radiological Status Survey Report" page 18.